

Policy Bulletins

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Summary: Calculating Institutional Refunds: What Are Institutional Charges?

POLICY INTERPRETATION AND GUIDANCE

STUDENT FINANCIAL ASSISTANCE PROGRAMS POLICY DEVELOPMENT DIVISION

SUBJECT: Calculating Institutional Refunds: What Are Institutional Charges?

STATUTORY AND REGULATORY CITATIONS: Section 484B of the Higher Education Act of 1965, as amended, (Title IV, HEA) and 34 CFR 668.22.

POLICY /INTERPRETATION/GUIDANCE:

This policy bulletin provides guidance on how to determine whether a charge is an institutional charge when calculating an institutional refund.

Institutional versus Non-Institutional Charges

When a student receives Title IV, HEA program funds to attend an institution and subsequently withdraws, drops out, takes an unapproved leave of absence, fails to return from an approved leave of absence, is expelled, or otherwise fails to complete the period of enrollment for which he or she was charged, federal law and regulations require the institution to make a timely refund of unearned tuition, fees, room and board, and other charges assessed the student by the institution. When a student withdraws, the institution must also determine if the student owes a repayment of unearned funds that the institution either disbursed to the student directly or, with the student's permission, credited to the student's account to pay for "non-institutional costs." Tuition, fees, room and board, and "other charges" have been collectively and historically referred to as "institutional charges." However, for the purposes of this bulletin, "institutional charges" will hereafter be referred to as "institutional costs" to clarify that institutional and non-institutional expenses are not defined by whether an actual charge has been made to a student's institutional account. As a general rule, institutional costs are defined as expenses that an institution assesses a student for educational expenses that are paid to the institution directly.

Since a repayment calculation involves only non-institutional costs and a refund calculation includes only institutional costs, a critical step in calculating an accurate refund and/or repayment involves determining whether the costs are institutional or non-institutional.

Common Misconceptions about Institutional Costs

The most frequently asked refund question the Department receives is: May this charge be considered a non-institutional cost? In the process of defining what may be considered a non-institutional cost, it seems some institutions have become confused about what constitutes an institutional cost. Therefore, please note the following general refund principles about institutional costs.

Refund Principle 1: Most Costs Are Institutional

The most important principle to keep in mind is that under current federal law and regulations provide that all tuition, fees, room and board, and other charges an institution assesses a student are institutional costs, unless demonstrated otherwise. Thus, an institution is never compelled by federal law and regulations to classify a charge as non-institutional if it wishes to classify the charge as institutional. However, if an institution wishes to exclude specific charges or costs from a refund calculation, it must demonstrate that the charges are either non-institutional costs or are designated as excludable costs under the regulations. Non-institutional and excludable costs are discussed in this bulletin under "General Guidelines for Defining Institutional Costs."

Refund Principle 2: An Institutional Cost Does Not Need To Be Assessed to all Students

Institutions sometimes mistakenly assume that a charge is not an institutional cost because it was not assessed to all students, or the charge was not included in the enrollment agreement. For example, the regulations in 34 CFR 668.22(c)(5)(i) and (d)(3)(i) provide general guidance that "other charges assessed the student by the institution include, but are not limited to. . . , " all items issued by the institution to the student when those charges are specified in the enrollment agreement as separate charges. However, it should be noted that the regulations recognize that other charges are not limited to items that are listed in the enrollment agreement. While a charge must be assessed to all students carrying the same academic workload to be considered an allowable cost of attendance, and Title IV, HEA program funds may only be used to pay allowable cost of attendance charges, it is not true that a charge must be assessed to all students, or be listed in an enrollment agreement, to be considered an institutional cost for refund purposes.

Refund Principle 3: Institutional Costs May or May Not Be Charged to a Student's Account

Please note the following points about institutional charges:

1. All charges to a student's account are not necessarily institutional costs.

With the student's permission, an institution may credit a student's account with Title IV, HEA program funds to pay for non-institutional costs. Consequently, if a student withdraws from the institution with charges for non-institutional costs on his or her account, the institution must use those charges to determine if the student owes a repayment. Specific charges that may be classified as non-institutional costs are defined in the discussion on "General Guidelines for Defining Institutional Costs."

2. Charges that do not appear on the student's institutional account may still be institutional costs.

For example, a student does not have to charge the purchase of required course materials to his or her institutional account for the course materials to be classified as "institutional costs." If an institution disburses funds to a student to buy equipment that he or she is required to have by the first day of class, but the disbursement is so late that the student only has time to purchase the equipment at the school, those costs must be classified as institutional costs because the student does not have "a real and reasonable opportunity" to purchase the equipment from someplace other than the school.

General Guidelines for Defining Institutional Costs

The following educational expenses must be considered institutional costs:

- All charges for tuition, fees, and room and board (if contracted with the institution); and
- Expenses for required course materials, if the student does not have a "real and reasonable opportunity" to purchase the required course materials from any place but the institution.

Exceptions

The total amount of all institutional costs must be used in the calculation of a refund, including the calculation of unpaid charges, if they are specifically designated as excludable.

"Excludable" costs are defined as:

Costs that the regulations permit an institution to exclude from the total amount of institutional charges when calculating a refund, such as an administrative fee (34 CFR 668.22(c)(4) and (d)(2)), documented cost of unreturnable equipment, and the documented cost of returnable equipment, if not returned in good condition within 20 days of withdrawal (34 CFR 668.22(c)(5)(ii) and (d)(3)(ii)).

Non-institutional costs include:

1. A charge for any required course materials that an institution can document are non-institutional because the student had "a real and reasonable opportunity" to purchase them elsewhere (Please see the discussion that follows.);
2. A charge to the student's account for room charges that are collected by the institution but are "passed through" to an unaffiliated entity (See, 34 CFR 668.22(c)(6)(i) or (d)(4)(i));
3. A charge to student's account for group health insurance fees, if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student's withdrawal; or

4. A charge to a student's account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

Demonstrating "Real and Reasonable Opportunity"

When the final regulations implementing the institutional refund and repayment rules were published in the Federal Register on November 29, 1994, the Department provided an exception to the refund rules to allow an institution to treat certain charges as non-institutional costs when the institution can show that its students have the option of obtaining required course materials from the institution or receiving payment of the funds from the institution to purchase the items from alternative sources.

This exception was discussed in the preamble discussion to the November 29, 1994 regulations on page 61163:

If an institution does not have a separate charge for equipment and the student has the option [emphasis added] of purchasing the equipment from more than one source, the institution would not have to include the equipment charge in the pro rata calculation.

With regard to this exception, please note that if an institution wishes to classify the cost of required books, supplies, and equipment as non-institutional costs, it must be able to substantiate that an option actually existed for its students. For example, the institution must be able to demonstrate that: 1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and 2) the institution did not restrict the availability of financial aid funds, so its students could exercise the option to purchase the required course materials from alternative sources.

An institution would not be able to demonstrate that a student had a real and reasonable opportunity to purchase his or her required course materials from alternative sources if one of the following is true:

- The required course materials are not available elsewhere (i.e., they were only available at the institution), or they are not conveniently available for purchase from another vendor unaffiliated with the institution;
- When financial aid* is available to the institution for disbursement to the student, the institution does not make those funds available to the student in time to purchase the required materials from another vendor before those materials are required for academic purposes;

* Financial aid is defined in 34 CFR 668.22(i) as federal, state, institutional, or other scholarship, grant, or loan program funds.

- The institution's practices do not allow or discourage a student (e.g., the use of vouchers that are only good at the campus bookstore or the late disbursement of funds to students to pay for non-

institutional costs) from exercising his or her option to purchase the required course materials from another vendor; or

- The institution has the student sign a statement saying that the student has the option to purchase course materials from someplace other than the school, but the institution is unable to document that an option truly existed.

Excludable Institutional Costs

The regulations also allow institutions to exclude the following costs from pro rata and Federal refund calculations if the school's return policies are reasonable, consistent, and fair to all students, and students were notified, in writing, of the school's policies when they enrolled.

- An administrative fee (up to \$100 or 5% of the total institutional costs, whichever is less);
- The institution's documented cost for non-returnable equipment; and
- The institution's documented cost of returnable equipment, if not returned in good condition within 20 days of withdrawal.

Please note that the institution is responsible for demonstrating that its policy on non-returnable equipment is reasonable, consistent, and fair to students. For example, it is not reasonable or fair to students to classify all used books or equipment as non-returnable. An institution must be able to demonstrate that there are specific circumstances that would prevent the institution from selling the books or equipment to other students. Also, if the institution's students are not notified in writing about the school's return policy when they enroll or the policy is not consistent with federal regulations on excludable costs, the institution may not exclude the documented cost of books, supplies, and equipment from any refund calculations.

Applying the Rules: Is this an Institutional Cost?

To see how the guidelines for defining institutional costs can be applied, let us consider how an institution would determine whether a charge for tools is non-institutional or institutional. A student is required to purchase certain types of high quality tools for his program of study by the first day of class. The institution's enrollment agreement does not contain a charge for the tools, and it does not say that the student is required to purchase the tools from the institution or a vendor affiliated with the school. The required tools are available for purchase from the institution and from a retailer across the street from the school. As a routine practice, the institution obtains permission to credit all financial aid to students' institutional accounts, and establishes a line of credit for students at the campus bookstore so they can purchase the required tools by the first day of class. All students buy the tools at the campus bookstore and charge the purchase to their institutional accounts.

The first step would be to determine if the purchase of the tools falls under the category of expenses that are generally considered institutional charges. Although the cost of the tools is not listed as a charge in the student's enrollment agreement, the institution requires the student to purchase the tools for his program of study. Therefore, as a general rule, the tool charges will be considered

institutional costs. However under the exceptions rule, the tool charges may be considered non-institutional if the institution can document that its students had a "real and reasonable opportunity" to purchase the tools from someplace other than the institution. The real and reasonable test would be if the institution could demonstrate the following: 1) the tools were available for purchase elsewhere; 2) the institution made financial aid available to students in time to purchase the tools from another vendor before the first day of class; and 3) the institution's practices provide students with an equal opportunity to purchase the tools from the campus bookstore or the retailer across the street.

In this case, the institution meets the first criterion: the tools are available at the store across the street, so an opportunity could exist. However, the institution fails to satisfy the second and third criteria because the institution's routine practice of crediting students' accounts with all financial aid, and extending lines of credit for purchases at the campus bookstore, does not allow its students the option of purchasing the required tools from the retailer across the street. Therefore, the only choice this institution's students have is to purchase the tools at the campus bookstore. As a result, the cost of the tools must be classified as institutional costs.

Summary

The following summarizes the key points contained in this bulletin:

1. Institutional costs are defined as charges that an institution assesses a student for educational expenses that must be paid to the institution directly.
2. An institution either disburses financial aid to the student directly to pay for non-institutional costs, or the institution may, with the student's permission, credit the student's account to pay for non-institutional charges.
3. Institutional costs are used to calculate institutional refunds.
4. Non-institutional costs are used in repayment calculations.
5. Current federal law and regulations governing institutional refunds provide that all tuition, fees, room and board, and other charges an institution assesses a student are institutional costs, unless demonstrated otherwise.
6. If an institution wishes to exclude specific charges or costs from a refund calculation, it must demonstrate that the charges are either non-institutional costs or are excludable costs under the regulations.
7. An institutional cost does not have to be charged to all students or be listed as a charge in an enrollment agreement to be classified as an institutional cost.
8. All charges to a student's account are not necessarily institutional costs.

9. If a charge does not appear on the student's institutional account, it may still be an institutional cost.
10. Tuition, fees, room and board (if contracted with the institution) are always institutional costs.
11. Expenses for required course materials are institutional costs, if the student does not have a real and reasonable opportunity to purchase the required course materials from any place but the institution he or she is attending.
12. The total amount of all institutional costs must be used to determine the student's unpaid charges and the refund due the student.
13. If an institution wishes to classify the cost of required course materials as non-institutional costs, it must be able to substantiate that: 1) the required course materials were available for purchase at a relatively convenient location unaffiliated with the school; and 2) the institution made financial aid funds available to students in a timely manner, so its students could exercise the option to purchase the required course materials from alternative sources.
14. "Excludable" costs are costs that the regulations permit an institution to exclude from the total amount of institutional charges when calculating a refund, such as an administrative fee, documented cost of unreturnable equipment, and the documented cost of returnable equipment, if not returned in good condition within 20 days of withdrawal.
15. Non-institutional costs include: charges for any required course materials that an institution can document are non-institutional because the student had "a real and reasonable opportunity" to purchase them elsewhere; a charge to the student's account for room charges that are collected by the institution but are "passed through" to an unaffiliated entity; a charge to student's account for group health insurance fees, if the insurance is required for all students and the coverage remains in effect for the entire period for which the student was charged, despite the student's withdrawal; and a charge to a student's account for discretionary educationally related expenses (e.g., parking or library fines, the cost of athletic or concert tickets, etc.).

If you have any policy-related questions that are not answered by this bulletin, please call the Policy Development Division at (202) 708-8242.

Thank you.

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Student Financial Assistance Programs